

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

W.R. GRACE & CO., et al.

Debtors.

Chapter 11

Case No. 01-01139 (JKF)

(Jointly Administered)

Objection Deadline: July 8, 2004

Hearing Date: To be determined

**NOTICE OF APPLICATION OF DAVID T. AUSTERN,
FUTURE CLAIMANTS' REPRESENTATIVE, FOR AUTHORIZATION TO
EMPLOY CIBC WORLD MARKETS CORP. AS FINANCIAL ADVISOR**

David T. Austern, Future Claimants' Representative for the future asbestos claimants in the above-captioned cases (the "Future Claimants' Representative" or "FCR") has submitted an application for authorization to employ CIBC World Markets Corp. as his financial advisor pursuant to Section 1103(a) of the Bankruptcy Code (the "Application").

You are required to file a response to the attached Application on or before July 8, 2004, and serve it on the following:

Roger Frankel, Esquire
Richard H. Wyron, Esquire
Matthew W. Cheney, Esquire
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
*Proposed Bankruptcy Counsel to David T. Austern
As Future Claimants' Representative*

John C. Phillips, Jr., Esquire
Phillips, Goldman & Spence, P.A.
1200 North Broom Street
Wilmington, DE 19806
*Proposed Bankruptcy Counsel to David T. Austern
As Future Claimants' Representative*

David M. Bernick, Esquire
Janet S. Baer, Esquire
James W. Kapp, III, Esquire
Samuel L. Blatnick, Esquire
Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, IL 60601
Counsel to the Debtors

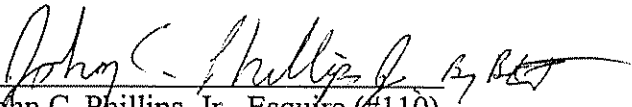
Laura Davis Jones, Esquire
Scotta McFarland, Esquire
David W. Carickhoff, Jr., Esquire
Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C.
919 North Market Street, 16th Floor, P.O. Box 8705
Wilmington, DE 19899-8705
Counsel to the Debtors

Frank J. Perch III, Esquire
Assistant U.S. Trustee
844 King Street, Suite 2207, Lock Box 35
Wilmington, DE 19801
United States Trustee

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT
MAY GRANT THE RELIEF REQUESTED BY THE APPLICATION WITHOUT FURTHER
NOTICE OR HEARING.

Dated: Washington, DC
June 18, 2004

Respectfully submitted,

By: 
John C. Phillips, Jr., Esquire (#110)
Phillips, Goldman & Spence, P.A.
1200 North Broom Street
Wilmington, DE 19806
(302) 655-4200

Roger Frankel, Esquire
Richard H. Wyron, Esquire
Matthew W. Cheney, Esquire
The Washington Harbour
3000 K Street, NW, Suite 300
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(202) 424-7500
*Proposed Bankruptcy Counsel to David T. Austern
as Future Claimants' Representative*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

W.R. GRACE & CO., et al.

Debtors.

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Case No. 01-01139 (JKF)

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**APPLICATION OF DAVID T. AUSTERN, FUTURE CLAIMANTS'
REPRESENTATIVE, FOR AUTHORIZATION TO EMPLOY
CIBC WORLD MARKETS CORP. AS FINANCIAL ADVISOR**

David T. Austern, the Court appointed legal representative for future asbestos claimants against the above-captioned Debtors (the "Future Claimants' Representative" or "FCR"), hereby submits this application (the "Application") for the entry of an Order, pursuant to section 1103(a) of title 11 of the United States Code (the "Bankruptcy Code"), authorizing and approving the retention and employment of CIBC World Markets Corp. ("CIBC") as his financial advisor. In support of this Application, the Future Claimants' Representative relies upon the Declaration of Joseph J. Radecki, Jr. (the "Radecki Declaration"), a Managing Director of CIBC, attached to this Application as Exhibit A. In further support of this Application, the Future Claimants' Representative respectfully represents as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The statutory basis for the relief requested herein is section 1103(a) of the Bankruptcy Code.

Background

2. On April 2, 2001 (the "Petition Date"), W.R. Grace & Co. and 61 affiliated entities (collectively, the "Debtors") each filed a petition for relief under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors are continuing in the management of their respective businesses and possession of their respective properties as debtors in possession.

3. By Order dated May 24, 2004, the Court appointed the FCR for these jointly administered cases.

4. Various matters will be considered by the Court in these cases which affect the interests of future asbestos claimants. In order to assist the FCR in exercising his duties and the interests of future asbestos claimants to be considered, the FCR respectfully asks the Court to consider and grant this Application.

Relief Requested

5. By this Application, the FCR seeks to retain and employ CIBC as his financial advisor in these chapter 11 cases, effective as of June 4, 2004, to provide advice on the matters described below, and respectfully requests entry of an order authorizing this retention.¹

Basis for the Relief Sought

6. Since June 4, 2004, CIBC has provided financial advice to the Future Claimants' Representative in his capacity as the Court appointed legal representative for future asbestos claimants against the Debtors. A copy of the engagement letter between the Future Claimants' Representative and CIBC (the "Engagement Agreement") is attached to the Radecki Declaration

¹ The May 24, 2004 Order appointing the FCR authorizes the FCR to employ professionals under the provision applicable to employment of professionals by an official committee, section 1103 of the Bankruptcy Code.

as Exhibit 1. Specifically, at the Future Claimants' Representative's request, CIBC has begun conducting due diligence with respect to the Debtors and their non-debtor affiliates, their financial affairs, their pre-petition transactions, matters which have transpired in these cases and proposals regarding potential plans of reorganization. It is anticipated that the Future Claimants' Representative and CIBC, along with other professionals, will be participating in negotiating any plan of reorganization and related documents.

7. CIBC is well qualified to act as the Future Claimants' Representative's financial advisor. CIBC's Financial Restructuring Group provides a range of financial advisory, investment banking and valuation services to debtors and debtors-in-possession, creditors' committees, acquirers, future claims representatives and other parties-in-interest in connection with bankruptcy cases and financially distressed situations. CIBC's professionals have served or are presently serving as financial advisors to debtors, creditors and trustees in numerous chapter 11 proceedings, including currently serving as the financial advisor to future claimants' representatives in three other asbestos bankruptcy cases. In addition to CIBC's significant expertise in providing financial advisory services to distressed companies and to various parties-in-interest in chapter 11 proceedings, CIBC maintains an industry group dedicated to the chemical industry that is highly active in providing advisory and financing services to the sector.

8. As a result of CIBC's experience in other bankruptcy cases, particularly as a financial advisor to future claimants' representatives in other asbestos bankruptcy cases, CIBC is familiar with the concerns and issues important to the Future Claimants' Representative and to asbestos personal injury claimants who may assert claims or demands in the future. Accordingly, the Future Claimants' Representative believes that retaining CIBC with respect to the specific matters described below is essential to the Future Claimants' Representative's role in

these cases, and that CIBC is well suited to assist the Future Claimants' Representative as his financial advisor during the chapter 11 process.

Services to be Rendered

9. Subject to the approval of this Court, CIBC will be engaged to render the following services to the Future Claimants' Representative:

- (a) assist the FCR in analyzing and reviewing the acts, conduct, assets, liabilities and financial condition of the Debtors;
- (b) familiarize itself to the extent appropriate with the operation of the Debtors' businesses, advise the FCR with respect to a proposed restructuring of the Debtors and implementation of a trust as contemplated under Section 524(g) of the Bankruptcy Code including analyzing, negotiating and effecting a plan of reorganization or recapitalization for the Debtors to the extent necessary, performing valuation analyses on the Debtors and their assets;
- (c) evaluate the financial effect of the implementation of any plan of reorganization upon the assets or securities of the Debtors; and
- (d) any other tasks as mutually agreed upon by CIBC and the FCR.

10. The FCR believes that employing CIBC as financial advisor as set forth herein will provide the FCR with advice, assistance and information in a cost effective manner in those areas in which CIBC has particular knowledge and expertise.

11. CIBC has indicated its willingness to act on behalf of, and render such services to, the FCR, upon the terms set forth herein.

**Disclosure Concerning Connections
Between CIBC and Parties in Interest**

12. To the best of the FCR's knowledge, except as otherwise set forth in the accompanying Radecki Declaration, CIBC does not have any connections with the FCR, the Debtors, their affiliates, creditors or any other party in interest, or their respective attorneys and accountants, the United States Trustee, or any person employed in the Office of the United States

Trustee, and does not hold or represent any interest adverse to the FCR on the matters upon which CIBC is to be engaged.

Professional Compensation

13. CIBC and the Future Claimants' Representative entered into an Engagement Agreement, pursuant to which CIBC will act as the Future Claimants' Representative's financial advisor if authorized by this Court. Pursuant to the May 24, 2004 Order appointing the FCR, compensation, including professional fees and reimbursement of expenses, shall be payable to the Future Claimants' Representative and his professionals from the Debtors' estates, in accordance with the terms and conditions negotiated by the FCR and the Debtors, subject to approval by the Court and subject to the Administrative Compensation Order.² The terms and conditions of CIBC's retention are set forth in the Engagement Agreement attached to the Radecki Declaration.

14. CIBC intends to apply for compensation for professional services rendered in connection with these cases, and for reimbursement of actual and necessary expenses incurred, in accordance with section 328(a) of the Bankruptcy Code, and the applicable provisions of the Bankruptcy Rules, the Local Rules and orders of this Court, including the Administrative Compensation Order. CIBC has agreed to accept as compensation such sums as may be allowed by the Court for fees incurred for professional services and for reimbursement of reasonable and necessary expenses.

15. Pursuant to the Engagement Agreement, CIBC agreed to perform the requested services for the following compensation:

² "Administrative Compensation Order" refers to the Amended Administrative Order Under 11 U.S.C. §§ 105(a) and 331 Establishing Revised Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members, entered April 17, 2002 [Docket #1949], as may be further amended by the Court.

- (a) for the initial six (6) months of the engagement, starting upon the date of the Engagement Agreement, a cash fee of \$150,000 per month, payable monthly in advance; and
- (b) following the initial six (6) month period, a fee to be negotiated that is mutually acceptable to the FCR and CIBC, subject to approval of this Court, for each month thereafter up through the month of the effective date of a plan of reorganization or termination of the Engagement Agreement, whichever first occurs.

In addition, the Engagement Agreement provides for reimbursement of reasonable out-of-pocket expenses incurred in connection with the provision of services thereunder. Such expenses include, but are not limited to, reasonable fees and expenses of its legal counsel, travel and lodging expenses, word processing charges, messenger and duplicating services, facsimile expenses and other customary expenditures. CIBC has agreed to invoice for these expenses in a manner and at rates consistent with charges made generally to CIBC's other clients. Both CIBC and the FCR recognize and acknowledge that the compensation proposed has been accepted by all parties based on their understanding of the proposed transaction. The fees to be paid to CIBC pursuant to the terms of the Engagement Agreement are subject to the standard of review provided in section 328(a) of the Bankruptcy Code and are not subject to any other standard of review, under section 330 of the Bankruptcy Code or otherwise, provided, however, that the FCR may, on a monthly basis, confer with CIBC whether any adjustment shall be made in the monthly fee based on CIBC's activity level for such month. The FCR would then submit any agreement reached with CIBC with respect to any adjustment to this Court for approval.

16. Other than as set forth above, no arrangement is proposed between the FCR and CIBC for compensation to be paid in these cases.

17. The FCR has been advised by CIBC that it has no agreement with any other entity to share compensation received, nor will any be made, except as permitted under section 504(b)(1) of the Bankruptcy Code.

18. Pursuant to the Engagement Agreement, CIBC requires that the Debtors agree to indemnify and hold harmless CIBC and the “Indemnified Parties” as defined in Annex A to the Engagement Agreement. See Radecki Declaration, Exh. 1. The indemnification procedures are in substantially the same form as the indemnification provision approved by the United States Court of Appeals for the Third Circuit in In re United Artists Company, et al., 315 F.3d 217, 233 (3d Cir. 2003).

Request for Nunc Pro Tunc Authorization

19. Issues which require the FCR’s review and input have arisen and continue to arise in these cases, and the FCR requires the assistance of a financial advisor. In order to avoid delaying this proceeding and the exercise of his duties as the newly-appointed Future Claimants’ Representative, the FCR asked CIBC to begin work on June 4, 2004, contingent upon the Court’s approval of this Application. Given the need for financial advisory services, the FCR respectfully asks that the employment of CIBC be authorized effective as of June 4, 2004.

20. For the reasons set forth above, the FCR believes that the retention of CIBC, effective as of June 4, 2004, upon the terms set forth in the Engagement Agreement, is necessary and in the best interests of the FCR, the Debtors, their estates and their creditors.

No Prior Request

21. No prior application for the relief requested herein has been made to this or any other Court.

Notice

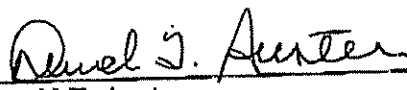
22. Notice of the Application and the requested relief has been provided to (i) counsel and co-counsel for the Debtors, (ii) the Office of the United States Trustee, (iii) counsel for the members of each of the Official Committees appointed in these cases, as follows, Unsecured Creditors, Asbestos Property Damage Claimants, Personal Injury Claimants, Equity Holders, and

(iv) the Fee Auditor, and (v) any party who has entered their appearance in these cases pursuant to Bankruptcy Rule 2002. Accordingly, the Future Claimants' Representative believes that such notice of the Application is appropriate and sufficient.

Conclusion

WHEREFORE, the Future Claimants' Representative respectfully requests that the Court enter an order substantially in the form attached hereto (1) granting this Application, (2) authorizing the Future Claimants' Representative to retain and employ CIBC, as of June 4, 2004, as his financial advisor in these chapter 11 cases pursuant to section 1103(a) of the Bankruptcy Code, in accordance with the terms set forth in this Application, and (3) granting such other and further relief as is just and proper.

DAVID T. AUSTERN
FUTURE CLAIMANTS' REPRESENTATIVE



David T. Austern
c/o Claims Resolution Management Corporation
3110 Fairview Park Drive
Suite 200
Falls Church, VA 22042
(703) 205-0835

Dated: June 17, 2004

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|------------------------------------|---|------------------------|
| In re: | : | |
| | : | Chapter 11 |
| W.R. GRACE & CO., <u>et. al.</u> , | : | Case No. 01-1139 (JKF) |
| | : | (Jointly Administered) |
| Debtors. | : | |

**DECLARATION OF JOSEPH J. RADECKI, JR. UNDER FED. R. BANKR. P. 2014 AND
5002 IN SUPPORT OF THE APPLICATION OF DAVID T. AUSTERN, FUTURE
CLAIMANTS' REPRESENTATIVE, FOR AUTHORIZATION TO EMPLOY
CIBC WORLD MARKETS CORP. AS FINANCIAL ADVISOR**

I, Joseph J. Radecki, Jr., state:

1. I am a Managing Director in the Financial Restructuring Group of CIBC World Markets Corp. ("CIBC"), which maintains offices at 425 Lexington Avenue, New York, NY 10017. This declaration is submitted pursuant to Fed. R. Bankr. P. 2014 and 5002, in support of the Application of David T. Austern, Future Claimants' Representative, for Authorization to Employ CIBC World Markets Corp. as Financial Advisor (the "Application"), filed by David T. Austern, the Future Claimants' Representative appointed by the Court in the above-captioned cases (the "FCR" or "Mr. Austern").¹

2. Except as otherwise provided below, the facts set forth in this declaration are based upon my personal knowledge, upon records maintained by CIBC in the ordinary course of its business, which have been reviewed by me and/or by other employees of CIBC at my direction, or upon information known by other employees of CIBC and conveyed to me.

CIBC's Qualifications and the Scope of CIBC's Retention

3. CIBC is a full service investment bank, which offers a comprehensive set of products and services for its corporate and institutional clients. The FCR selected CIBC because

¹ Unless otherwise defined, capitalized terms used herein shall have the meanings ascribed to them in the Application.

of CIBC's extensive experience and knowledge of various financial matters, especially as it relates to complex corporate and capital structures, such as those at issue in these chapter 11 cases.

4. CIBC is well qualified to act as the FCR's financial advisor. CIBC provides investment banking and financial advisory services from offices located throughout the United States, Canada, Europe and Asia. CIBC's Financial Restructuring Group provides a range of financial advisory, investment banking and valuation services to debtors and debtors-in-possession, creditors' committees, acquirers, future claims representatives and other parties-in-interest in connection with bankruptcy cases and financially distressed situations. CIBC's professionals have served or are presently serving as financial advisors to debtors, creditors and trustees in numerous chapter 11 proceedings, including currently serving as the financial advisor to future claimants' representatives in three other asbestos bankruptcy cases. In addition to CIBC's significant expertise in providing financial advisory services to distressed companies and to various parties-in-interest in chapter 11 proceedings, CIBC maintains an industry group dedicated to the chemical industry that is highly active in providing advisory and financing services to the sector.

5. The professionals assigned by CIBC to this engagement possess the requisite experience to handle complex bankruptcy matters. Professionals in CIBC's Financial Restructuring Group have been involved in transactions where in excess of \$67 billion of securities have been affected.

6. As a result of CIBC's experience in other bankruptcy cases, particularly as a financial advisor to future claimants' representatives in other asbestos bankruptcy cases, CIBC is familiar with the concerns and issues important to the FCR and to the asbestos personal injury

claimants who may assert claims or demands in the future and, thus, is well suited to assist the FCR as his financial advisor during these chapter 11 cases.

7. The FCR desires to utilize, in these chapter 11 cases, the experience, expertise and knowledge of CIBC. Since June 4, 2004, in connection with Mr. Austern's role as the legal representative for future asbestos claimants against W.R. Grace & Co. and 61 of its affiliated entities ("Grace" or the "Debtors"), CIBC has been providing Mr. Austern with financial advisory services. A copy of the engagement letter between Mr. Austern and CIBC, dated June 4, 2004 (the "Engagement Agreement") is attached hereto as Exhibit 1. The FCR, his legal counsel, Swidler Berlin Shereff Friedman, LLP ("SBSF"), and CIBC have begun conducting due diligence with respect to the Debtors and their non-debtor affiliates, their financial affairs, their pre-petition transactions, matters that have transpired in these cases and proposals regarding potential plans of reorganization. It is anticipated that CIBC, along with the FCR and his other professionals, will be participating in negotiating any plan of reorganization and related documents.

8. The FCR requested that CIBC render the following services in connection with these cases, which services are set forth in the Engagement Agreement:

- a. assist the FCR in analyzing and reviewing the acts, conduct, assets, liabilities and financial condition of the Debtors;
- b. familiarize itself to the extent appropriate with the operation of the Debtors' businesses, advise the FCR with respect to a proposed restructuring of the Debtors and implementation of a trust as contemplated under Section 524(g) of the Bankruptcy Code including analyzing, negotiating and effecting a plan of reorganization or recapitalization for the Debtors to the extent necessary, performing valuation analyses on the Debtors and their assets;
- c. evaluate the financial effect of the implementation of any plan of reorganization upon the assets or securities of the Debtors; and
- d. any other tasks as mutually agreed upon by CIBC and the FCR.

Subject to the Court's approval of the Application, CIBC is willing to serve as financial advisor to the FCR and to perform the services described above.

Disinterestedness of CIBC

9. In order to prepare this declaration, CIBC has taken various steps to determine whether any conflict of interest exists that would preclude CIBC from serving as financial advisor to the FCR. In connection with CIBC's proposed engagement in these cases, I reviewed or caused to be reviewed CIBC's business records to determine, among other things, (i) whether CIBC already represents any other client in connection with the proposed new matter, (ii) whether CIBC already represents any other client in a capacity that may be adverse to the proposed client, or where the proposed representation might be adverse to the interests of such other client, and (iii) whether CIBC has any connections with the Debtors, their creditors and other parties identified to me as parties in interest.

10. Once this review process identified a potential connection between CIBC and a listed party in interest, I or employees working under my supervision elicited information to discern the nature and scope of the representation or connection for appropriate disclosure in this declaration.

11. Based upon the review of the business records, as set forth above, and the resulting inquiries, and responses from individual CIBC officers, directors and/or employees, I have identified the following matters:

- a. CIBC has provided lending and investment banking services, primarily consisting of financial advisory and debt financing services, to Huntsman Corporation or its affiliates, one of Grace's top 20 largest unsecured creditors.
- b. CIBC was a participant in a joint lease transaction with PCS Nitrogen Fertilizer, L.P., one of Grace's top 20 largest unsecured creditors. The underlying leases were cancelled on May 21, 2001.

- c. CIBC was a participant in a series of lease transactions with The Dow Chemical Company, a joint venture partner in DuPont Dow Elastomers LLC, which is one of Grace's top 20 largest unsecured creditors. All of the leases were cancelled on April 1, 2004.
- d. CIBC is currently engaged in a lease agreement with E.I. DuPont de Nemours and Company in connection with a property in which CIBC has an interest. E.I. DuPont de Nemours and Company is a joint venture partner in DuPont Dow Elastomers LLC, one of Grace's top 20 largest unsecured creditors. The lease is scheduled to expire in 2011.

12. Certain affiliates of CIBC are represented by SBSF on matters unrelated to the Debtors or these chapter 11 cases. Prior to Combustion Engineering, Inc. ("CE") filing its chapter 11 case, CIBC was retained by SBSF to provide services to SBSF, in connection with SBSF's representation of Mr. Austern as the CE pre-petition future claimants' representative. After CE filed its chapter 11 case, and after Mr. Austern had been appointed as the future claimants' representative, Mr. Austern retained CIBC directly as his financial advisor in that case. In addition, CIBC has been retained by SBSF to provide services to SBSF in connection with SBSF's representation of Mr. Austern as future claimants' representative in a confidential matter. CIBC was also retained to provide services to the future claimants' representative in connection with Congoleum Corporation's chapter 11 case; SBSF represents the future claimants' representative in that matter.

13. The Debtors have or may have other parties in interest, and CIBC may have rendered or may be rendering services to certain of such parties, or may become involved in matters unrelated to these cases in which such parties, or attorneys or accountants for such parties, were, are or become, involved. CIBC also may have or represent interests adverse to such creditors or parties in interest in matters unrelated to these cases. Based on the information currently available, CIBC believes that no such matter involves representation of any interest adverse to the FCR on the matters upon which CIBC is to be engaged.

14. In addition to the foregoing, CIBC's officers, directors and employees may have business associations with, professional and social relationships with, or interests adverse to, creditors or parties in interest, or their attorneys, accountants or advisors; as far as I have been able to ascertain, none of these associations, relationships, or interests have any connection with these cases. As part of its practice, CIBC provides its services in cases, proceedings and transactions throughout the United States involving many different parties, and works together with many different parties, which may include creditors or parties in interest, or attorneys, accountants or other professional firms or advisors who may represent creditors or parties in interest in these cases.

15. To the best of my knowledge, no officer, director or employee at CIBC is related to any United States District Judge or United States Bankruptcy Judge for the District of Delaware or to the United States Trustee for this district or to any known employee of his office.

16. None of the representations described above are materially adverse to the interests of the Debtors, their estates, any class of creditors or equity security holders, the future asbestos claimants, or the FCR. Thus, CIBC is disinterested and may serve as financial advisor to the FCR notwithstanding its connection to parties in interest in the unrelated matters described above.

17. As far as I have been able to ascertain to date and to the best of my knowledge, and except as otherwise set forth herein, CIBC (a) does not hold or represent any interest adverse to the FCR on the matters upon which CIBC is to be engaged and (b) has no connection with the Debtors, creditors, any other party in interest, their respective attorneys and retained professionals, the United States Trustee or any person employed in his office (to the extent identified to CIBC).

Professional Compensation

18. CIBC and the FCR entered into an Engagement Agreement, pursuant to which CIBC will act as the FCR's financial advisor if authorized by this Court. Pursuant to the May 24, 2004 Order appointing the FCR, compensation, including professional fees and reimbursement of expenses, shall be payable to the FCR and his professionals from the Debtors' estates, in accordance with the terms and conditions negotiated by the FCR and the Debtors, subject to approval by the Court and subject to the Administrative Compensation Order. The terms and conditions of CIBC's retention are set forth in the Engagement Agreement attached hereto.

19. CIBC intends to apply for compensation for professional services rendered in connection with this case, and for reimbursement of actual and necessary expenses incurred, in accordance with section 328(a) of the Bankruptcy Code, and the applicable provisions of the Bankruptcy Rules, the Local Rules and orders of this Court, including the Administrative Compensation Order. CIBC has agreed to accept as compensation such sums as may be allowed by the Court for fees incurred for professional services and for reimbursement of reasonable and necessary expenses.

20. Pursuant to the Engagement Agreement, CIBC agreed to perform the requested services for the following compensation:

- (a) for the initial six (6) months of the engagement, starting upon the date of the Engagement Agreement, a cash fee of \$150,000 per month, payable monthly in advance; and
- (b) following the initial six (6) month period, a fee to be negotiated that is mutually acceptable to the FCR and CIBC, subject to approval of the Court, for each month thereafter up through the month of the effective date of a plan of reorganization or termination of the Engagement Agreement, whichever first occurs.

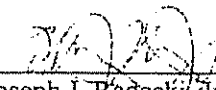
In addition, the Engagement Agreement provides for reimbursement of reasonable out-of-pocket expenses incurred in connection with the provision of services thereunder. Such expenses include, but are not limited to, reasonable fees and expenses of its legal counsel, travel and lodging expenses, word processing charges, messenger and duplicating services, facsimile expenses and other customary expenditures. CIBC has agreed to invoice for these expenses in a manner and at rates consistent with charges made generally to CIBC's other clients. Both CIBC and the FCR recognize and acknowledge that the compensation proposed has been accepted by all parties based on their understanding of the proposed transaction. The fees to be paid to CIBC pursuant to the terms of the Engagement Agreement are subject to the standard of review provided in section 328(a) of the Bankruptcy Code and are not subject to any other standard of review, under section 330 of the Bankruptcy Code or otherwise, provided, however, that the FCR may, on a monthly basis, confer with CIBC whether any adjustment shall be made in the monthly fee based on CIBC's activity level for such month. The FCR would then submit any agreement reached with CIBC with respect to any adjustment to this Court for approval.

21. To the best of my knowledge, no promises have been received by CIBC nor any officer, director or employee thereof as to payment or compensation in connection with the above-captioned cases other than in accordance with applicable provisions of the Bankruptcy Code. To the best of my knowledge, CIBC has no agreement with any other entity to share with such entity compensation received by CIBC in connection with the Debtors' bankruptcy cases, except as permitted by Section 504(b)(1) of the Bankruptcy Code.

* * * * *

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on June 17, 2004



Joseph J. Radecki, Jr.

Sworn to before me this
17th day of June, 2004.



NOTARY PUBLIC

MELISSA LARSON, DEPUTY
Notary Public for the State of New York
My Commission Expires on 06/18/05

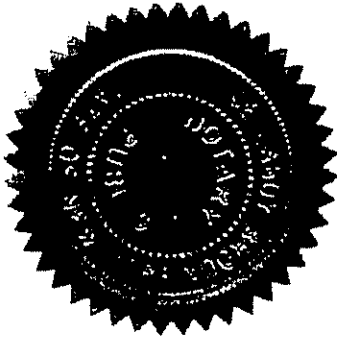


EXHIBIT 1

CIBC WORLD MARKETS

CIBC World Markets Corp
425 Lexington Avenue
New York, NY 10017
Tel: 212-885-4400
Fax: 212-885-4998

June 4, 2004

PERSONAL AND CONFIDENTIAL

David T. Austern
Claims Resolution Management Corporation
3110 Fairview Park Drive, Suite 200
Falls Church, VA 22042-0683

Dear Mr. Austern:

This letter agreement (the "Agreement") confirms our understanding of the engagement, subject to Bankruptcy Court approval, of CIBC World Markets Corp. ("CIBC World Markets") by David T. Austern, the Court appointed representative for future asbestos claimants (the "Future Representative") to W.R. Grace & Co. (together with its subsidiaries and affiliates the "Company") to act as exclusive financial advisor to the Future Representative in connection with a proposed restructuring of the Company and implementation of a trust as contemplated under Section 524(g) of the Bankruptcy Code (the "Transaction"). The Future Representative will undertake to apply to the Bankruptcy Court, which has jurisdiction over the Company's chapter 11 bankruptcy proceeding, for authorization to employ CIBC in accordance with the terms and conditions of this Agreement, with this Agreement attached as an exhibit to such application. Subject to the terms and conditions hereof, CIBC agrees to accept as compensation for the services that CIBC renders pursuant to the terms hereof such sums as may be allowed by the Bankruptcy Court for fees incurred for professional services and for reimbursement of reasonable and necessary expenses.

Notwithstanding anything contained in this letter agreement to the contrary: (a) CIBC World Markets makes no representations or warranties about the Company's ability to (i) successfully improve its operations, (ii) maintain sufficient liquidity to operate its business or (iii) successfully complete a Transaction, and (b) CIBC World Markets makes no representation, warranty or commitment to underwrite, place or purchase any securities or provide any form of financing to the Company.

Services. Subject to approval of the Bankruptcy Court, the Future Representative hereby retains CIBC World Markets as the financial advisor to the Future Representative in connection with the Transaction. In connection with this engagement, CIBC World Markets will:

- (a) assist the Future Representative in analyzing and reviewing the acts, conduct, assets, liabilities and financial condition of the Company;
- (b) familiarize itself to the extent appropriate with the operation of the Company's businesses, advise the Future Representative with respect to the Transaction including analyzing, negotiating and effecting a plan of reorganization or recapitalization for the Company to the extent necessary, performing valuation analyses on the Company and their assets;
- (c) evaluate the financial effect of the implementation of any plan of reorganization upon the assets or securities of the Company; and
- (d) any other tasks as mutually agreed upon by CIBC World Markets and the Future Representative.

It is expressly understood that CIBC World Markets is working for and will take direction from the Future Representative and will share any work product with the Company only with the permission of the Future Representative.

In rendering its services to the Future Representative hereunder, CIBC World Markets is not assuming any responsibility for the Company's underlying business decision to pursue or not to pursue any business strategy or to effect or not to effect any Transaction.

Compensation. In full payment for services rendered and to be rendered hereunder by CIBC World Markets, the Company shall pay to CIBC World Markets, in cash, subject to approval of the Bankruptcy Court, monthly fees (the "Monthly Fees"), as follows:

- (a) for the initial six (6) months of this engagement, starting upon the date of this letter agreement, a fee of \$150,000 per month, payable monthly in advance; and
- (b) following the initial six (6) month period, a fee to be negotiated that is mutually acceptable to the Future Representative and CIBC World Markets, subject to approval of the Bankruptcy Court, for each month thereafter up through the month of the effective date of a plan of reorganization or termination of this letter agreement, whichever first occurs.

Both CIBC and the Future Representative recognize and acknowledge that the compensation proposed has been accepted by all parties based on their understanding of the proposed Transaction. The Monthly Fee to be paid to CIBC pursuant to the terms of the this letter agreement shall be subject to the standard of review provided in section 328(a) of the Bankruptcy Code and are not subject to any other standard of review, under section 330 of the Bankruptcy Code or otherwise, provided, however, that the Future Representative may, on a monthly basis, confer with CIBC whether any adjustment shall be made in the Monthly Fee based on CIBC's activity level for such month.

Reimbursement of Expenses. Subject to Bankruptcy Court approval, the Company shall periodically reimburse CIBC World Markets promptly when invoiced for all of its reasonable out-of-pocket expenses (including, without limitation, reasonable fees and expenses of its legal counsel, travel and lodging expenses, word processing charges, messenger and duplicating services, facsimile expenses and other customary expenditures) in connection with the performance of its services hereunder, regardless of whether a Transaction occurs. Upon termination of this letter agreement or completion of a Transaction, subject to Bankruptcy Court approval, the Company shall pay promptly in cash any unreimbursed expenses that have accrued as of such date. To the extent officers of CIBC World Markets assist in, or provide testimony in trial or deposition for any action, suit or proceeding relating to a Transaction or our engagement hereunder after the consummation of a Transaction or termination of our engagement hereunder, subject to Bankruptcy Court approval, the Company shall pay CIBC World Markets a per diem charge for the services of such officers in an amount to be mutually agreed upon by the Future Representative and CIBC World Markets prior to such assistance.

Term. This engagement will commence on the date hereof and terminate 30 days from the date on which the Future Representative or CIBC World Markets, as the case may be, receives written notice from the other of termination of this engagement. CIBC World Markets may resign at any time and the Future Representative may terminate CIBC World Markets' services at any time, each by giving written notice to the other. Notwithstanding the foregoing, the Future Representative agrees that the provisions relating to the payment of fees, reimbursement of expenses, indemnification and contribution, and waiver of the right to trial by jury will survive any such termination.

If Joseph J. Radecki, Jr. shall cease to be employed by CIBC, CIBC shall give prompt notice to the Future Representative and the Future Representative shall have the right to terminate this Agreement immediately by giving notice to CIBC and the Company shall not be obligated to pay CIBC the fees outlined above beyond the effective date of such termination under such circumstances. CIBC will also provide appropriate levels of staffing to complete the engagement in a timely and commercially reasonable manner.

Liability for Fees and Expenses. Subject to approval by the Bankruptcy Court, the Company shall be solely responsible for the payment of compensation and reimbursement of expenses to CIBC under this Agreement. The Future Representative shall not be liable for the payment of any compensation or reimbursement of any expenses to CIBC hereunder.

Use of Information. The Future Representative shall use its reasonable best efforts to have the Company furnish to CIBC World Markets such information as CIBC World Markets requests for purposes of performing services under this letter agreement (the "Information"). The Future Representative will use its reasonable best efforts to have the Company agree and represent that all Information relating to the Company furnished to CIBC World Markets will be accurate and complete in all material respects at the time provided, and that, if the Company is aware of any Information becoming materially inaccurate, incomplete or misleading during the engagement hereunder, the Company will promptly advise CIBC World Markets. The Future Representative recognizes and confirms that CIBC World Markets assumes no responsibility for the accuracy and completeness of the Information and will be using and relying upon the Information (and information available from generally recognized public sources) without assuming responsibility for independent verification or independent evaluation of any of the assets or liabilities of the Company.

Indemnification. Subject to Bankruptcy Court approval, in addition to the payment of fees and reimbursement of fees and expenses provided for above, and regardless if any Transaction is consummated, the Company shall agree to indemnify CIBC World Markets with regard to the matters contemplated herein, as set forth in Annex A, attached hereto, which is incorporated by reference as if fully set forth herein.

Governing Law. This letter agreement will be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be fully performed therein.

Each of the Future Representative and CIBC World Markets hereby waives any right it may have to a trial by jury in respect of any claim brought by or on behalf of either party based upon, arising out of or in connection with this letter agreement, our engagement hereunder or the transactions contemplated hereby.

Confidentiality. Except as required by law, this Agreement and the services, information and advice to be provided by CIBC World Markets hereunder, is for the confidential use of the Future Representative and shall not be disclosed to third parties without CIBC World Markets' prior written permission.

Advertisements. CIBC World Markets shall be permitted, at its own expense, to advertise the services it provided in connection with any transaction subsequent to the consummation thereof.

Use of Name. The Future Representative agrees that any reference to CIBC World Markets, as financial advisor in any release or communication or materials distributed, is subject to CIBC World Markets' prior written approval, unless such release or communication is required by law or regulation. If CIBC World Markets resigns prior to the dissemination of any such release, communication or material, no reference shall be made therein to CIBC World Markets.

Authorization. The Future Representative represents and warrants that, subject to Bankruptcy Court approval, it has all requisite power and authority, and all necessary authorizations, to enter into and carry out the terms and provisions of this Agreement and the execution, delivery and performance of this Agreement does not breach or conflict with any agreement, document or instrument to which it is a party or bound.

No Brokers. The Future Representative represents and warrants to CIBC World Markets that there are no brokers, representatives or other persons which have an interest in compensation due to CIBC World Markets from any transaction contemplated herein or which would otherwise be due any fee, commission or remuneration upon consummation of any Transaction.

Conflicts. The Future Representative acknowledges that CIBC World Markets and its affiliates shall have no obligation to disclose any information acquired in connection with various investment banking, commercial banking and financial advisory relationships with, or services for, other clients and customers, to the Company or to use such information in connection with any transactions contemplated by this letter agreement.

Independent Contractor. The Future Representative acknowledges that CIBC World Markets has been retained solely to provide the services set forth in this letter agreement. The Future Representative acknowledges that in performing its services, CIBC World Markets shall act as an independent contractor, and not as agent or otherwise, and any duties of CIBC World Markets arising out of its engagement hereunder shall be owed solely to the Future Representative and CIBC World Markets shall have no duties or liabilities to the equity holders or other stakeholders of the Company or any third party in connection with its engagement hereunder, all of which are expressly waived. No one other than the Future Representative is authorized to rely upon the engagement of CIBC World Markets hereunder or any statements, advice, opinions or conduct by CIBC World Markets. The Future Representative further acknowledges that CIBC World Markets may perform certain of the services described herein through one or more of its affiliates and any such affiliates shall be entitled to the benefit of this Agreement.


Anti-Money Laundering. To help the United States government fight the funding of terrorism and money laundering activities, the federal law of the United States requires all financial institutions to obtain, verify and record information that identifies each person with whom they do business. This means we must ask you for certain identifying information, including a government-issued identification number (e.g., a U.S. taxpayer identification number) and such other information or documents that we consider appropriate to verify your and the Company's identity, such as certified articles of incorporation, a government-issued business license, a partnership agreement or a trust instrument.

Miscellaneous. This Agreement constitutes the entire understanding and agreement between the Future Representative and CIBC World Markets with respect to the subject matter hereof and supersedes all prior understanding or agreements between the parties with respect thereto, whether oral or written, express or implied. Any amendments or modifications must be executed in writing by both parties. This Agreement and all rights, liabilities and obligations hereunder shall be binding upon and inure to the benefit of each party's successors but may not be assigned without the prior written approval of the other party. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. The descriptive headings of the Paragraphs of this Agreement are inserted for convenience only, do not constitute a part of this Agreement and shall not affect in anyway the meaning or interpretation of this Agreement.

If the foregoing meets with your approval, please sign the attached duplicate copy of this letter and return it to the undersigned.

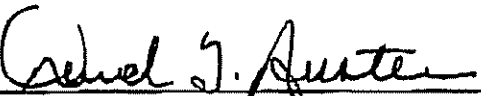
Very truly yours

CIBC World Markets Corp.

By 
Joseph J. Raderki, Jr.
Managing Director

Accepted and agreed
to as of the date first
written above:

Future Representative to W.R. Grace & Co.

By 
David T. Austern
Future Representative

ANNEX A: INDEMNIFICATION

(A) In consideration of CIBC World Markets' agreement to act on behalf of the Future Representative, notwithstanding any limitations set forth herein, subject to approval by the Bankruptcy Court, the Company agrees to indemnify and hold harmless CIBC World Markets and its affiliates and their respective present and former directors, officers, employees, agents and controlling persons within the meaning of section 15 of the Securities Act of 1933, as amended (each such person, including CIBC World Markets, an "Indemnified Party" and collectively the "Indemnified Parties") to the fullest extent permitted by law from and against any losses, claims, damages and liabilities, joint or several (collectively, the "Damages"), to which such Indemnified Party may become subject in connection with or otherwise relating to or arising from (i) any transaction or matter in any way relating to or referred to in this letter agreement or arising out of the matters contemplated by this letter agreement or the engagement of or performance of services or any involvement or ~~alleged involvement in a Transaction (as defined in this letter agreement) by CIBC World Markets thereunder~~ or (ii) an untrue statement or an alleged untrue statement of a material fact or the omission or alleged omission to state a material fact necessary in order to make a statement not misleading in light of the circumstances under which it was made, and will reimburse each Indemnified Party for all fees and expenses (including the fees and expenses of counsel) (collectively, "Expenses") as incurred, subject to the provisions of paragraph (D), below, in connection with investigating, preparing, pursuing or defending any threatened or pending claim, action, proceeding or investigation (collectively, the "Proceedings") arising therefrom, whether or not such Indemnified Party is a formal party to such Proceeding; provided, that the Company will not be liable to any such Indemnified Party to the extent that any Damages are found in a final non-appealable judgment by a court of competent jurisdiction to have resulted solely from the bad faith, gross negligence or willful malfeasance of the Indemnified Party seeking indemnification hereunder or any breach by CIBC World Markets of this letter agreement. The Company also agrees that no Indemnified Party will have any liability (whether direct or indirect, in contract, tort or otherwise) to the Company or any person asserting claims on behalf of the Company arising out of or in connection with any transactions contemplated by this letter agreement or the engagement of or performance of services by any Indemnified Party thereunder except to the extent that any Damages are found in a final non-appealable judgment by a court of competent jurisdiction to have resulted solely from the bad faith, gross negligence or willful malfeasance of the Indemnified Party or any breach by CIBC World Markets of this letter agreement.

(B) If for any reason other than in accordance with this letter agreement, the foregoing indemnity is unavailable to an Indemnified Party in respect of any Damages (including all Expenses incurred) referred to herein or insufficient to hold an Indemnified Party harmless, then the Company agrees that in lieu of indemnifying such Indemnified Party, the Company shall contribute to the amount paid or payable by such Indemnified Party as a result of such Damages (including all Expenses incurred) (i) in such proportion as is appropriate to reflect the relative benefits to the Company and/or its stockholders on the one hand, and of the Indemnified Party on the other hand, from the services rendered under this letter agreement or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and of the Indemnified Party on the other. The Company agrees that for purposes of this paragraph the relative benefits to the Company and/or its stockholders and CIBC World Markets in connection with the matters covered by this letter agreement will be deemed to be in the same proportion that the total value paid or received or to be paid or received by the Company and/or its stockholders in connection with the transactions contemplated by this letter agreement, whether or not consummated, bears to the fees paid to CIBC World Markets under this letter agreement; provided, that in no event will the total contribution of all Indemnified Parties to all such Damages exceed the amount of fees actually received and retained by CIBC World Markets under this letter agreement (excluding any amounts received by CIBC World Markets as reimbursement of expenses). Relative fault shall be determined by reference to, among other things, whether any alleged untrue statement or omission or any alleged conduct relates to information provided by

the Company or other conduct by the Company (or its employees or other agents) on the one hand, or by CIBC World Markets, on the other hand.

(C) The Company agrees not to enter into any waiver, release or settlement of any Proceeding (whether or not CIBC World Markets or any other Indemnified Party is a formal party to such Proceeding) in respect of which indemnification may be sought hereunder without the prior written consent of CIBC World Markets (which consent will not be unreasonably withheld), unless such waiver, release or settlement (i) includes an unconditional release of CIBC World Markets and each Indemnified Party from all liability arising out of such Proceeding and (ii) does not contain any factual or legal admission by or with respect to any Indemnified Party or any adverse statement with respect to the character, professionalism, expertise or reputation of any Indemnified Party or any action or inaction of any Indemnified Party. In the event that a cause of action is asserted against an Indemnified Party arising out of or relating to the performance of his, her or its duties as financial advisor to the Future Representative, the Indemnified Party shall have the right to choose its own counsel.

(D) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in the Company's chapter 11 bankruptcy cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing the Company's chapter 11 bankruptcy cases, CIBC World Markets believes that it is entitled to the payment of any amounts by the Company on account of the Company's indemnification, contribution and/or reimbursement obligations under this letter agreement or arising out of the matters contemplated by this letter agreement or the engagement of or performance of services by an Indemnified Party thereunder, including without limitation, the advancement of defense costs, CIBC World Markets must file an application therefore with the Bankruptcy Court, and the Company may not pay any such amounts to CIBC before the entry of an order by the Bankruptcy Court approving payment. This paragraph is intended only to specify the period of time under which the Bankruptcy Court shall have jurisdiction over any request for fees and expenses by CIBC World Markets for indemnification, contribution or reimbursement and not to limit the duration of the Company's obligation to indemnify CIBC.

(E) The indemnity, reimbursement and contribution obligations of the Company hereunder will be in addition to any liability which the Company may have at common law or otherwise to any Indemnified Party and will be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company or an Indemnified Party. The provisions of this Annex will survive the modification or termination of this letter agreement.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

W.R. GRACE & CO., et al.

Debtors.

**Chapter 11
Case No. 01-01139 (JKF)
(Jointly Administered)**

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT OF
CIBC WORLD MARKETS CORP. AS FINANCIAL ADVISOR TO
DAVID T. AUSTERN, FUTURE CLAIMANTS' REPRESENTATIVE**

Upon the application (the "Application") of David T. Austern, Future Claimants' Representative ("Future Claimants' Representative") in the above-captioned chapter 11 cases of W.R. Grace & Co. and its affiliates (collectively, the "Debtors"), seeking entry of an Order under section 1103(a) of the Bankruptcy Code authorizing the Future Claimants' Representative to employ and retain CIBC World Markets Corp. ("CIBC") as his financial advisor; and the Court having reviewed the Application and the accompanying Declaration of Joseph J. Radecki, Jr. (the "Radecki Declaration"), a Managing Director of CIBC; and the Court being satisfied from the Radecki Declaration that CIBC neither holds nor represents any interest adverse to the Future Claimants' Representative on the matters upon which CIBC is to be engaged; and it appearing that the relief requested is in the best interests of the Future Claimants' Representative and the Debtors' estates, their creditors and other parties-in-interest; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 158(a); and it appearing that notice of the Application was good and sufficient under the particular circumstances and that no other or further notice need be given and upon the record herein; and it further appearing that the terms

and conditions of CIBC's employment as further described in the Application and the Radecki Declaration are reasonable and necessary; it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Application be, and it hereby is, approved;
2. Pursuant to section 1103(a) of the Bankruptcy Code and the May 24, 2004 Order appointing David T. Austern as the Future Claimants' Representative [Docket No. 5645], the Future Claimants' Representative be, and he hereby is, authorized to employ and retain CIBC as financial advisor effective as of June 4, 2004, upon the terms, and to perform the services, set forth in the Application and the Radecki Declaration;
3. The indemnification provisions set forth in the engagement letter between the Future Claimants' Representative and CIBC, attached to the Radecki Declaration as Exhibit 1, including Annex A thereto (the "Engagement Agreement"), are incorporated by reference and are hereby approved;
4. CIBC shall be compensated in accordance with the terms of the Engagement Agreement and section 328(a) of the Bankruptcy Code, subject to the procedures set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and as may be fixed by order of this Court, including the Administrative Compensation Order(s) entered in these cases; and
5. The fees and expenses of CIBC allowed by the Court shall be an administrative expenses of the Debtors' estates.

Dated: _____, 2004

The Honorable Judith K. Fitzgerald
United States Bankruptcy Judge

CERTIFICATE OF SERVICE

I, DEBRA O. FULLEM, do hereby certify that I am over the age of 18, and that on June 18, 2004, I caused the *Application of David T. Austern, Future Claimants' Representative, for Authorization to Employ CIBC World Markets Corp. as Financial Advisor, Notice thereof and proposed Order* to be served upon those persons as shown on the attached Service List by first class mail, postage prepaid.

Under penalty of perjury, I certify the foregoing to be true and correct.



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Swidler Berlin Shereff Friedman, LLP

W. R. Grace 2002 Service List

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